

CITY OF ABERDEEN  
PLANNING COMMISSION MEETING  
MINUTES

Wednesday, July 18, 2012

A meeting of the Aberdeen Planning Commission was called to order at 7:00 p.m., July 18, 2012 in the Council Chambers by Chairman Swisher.

MEMBERS PRESENT: Chairman Swisher, Commissioners Braerman, Heavey, Hersh, Preston, and Schlottman.

OTHERS PRESENT: Phyllis Grover, Director of Planning & Community Development  
Woodrow Stark, City Attorney  
Matt Lapinsky, Director of Public Works  
John Landbeck, Aberdeen Volunteer Fire Department  
Connie Martin, Acting Recording Secretary

The minutes of the May 16, 2012, meeting were approved.

AGENDA ITEMS:

1. **Preliminary Subdivision Plan for Chick-fil-A**  
**Location: 1001 Beards Hill Road (at corner of Maryland Route 22).**

Representatives: Joseph Ucciferro, Bohler Engineering, and Matthew Stonemaker of Chick-fil-A (CFA).

Mr. Stonemaker indicated CFA has been in business since 1946 and has over 1,600 stores in 38 states. Each franchisee is allowed a maximum of 2 stores. He said there is currently one CFA in Harford County, in Abingdon, with a second to open next week in Forest Hill, and hopefully a third in Aberdeen. Mr. Ucciferro indicated the Aberdeen location will be on the southwest corner of Beards Hill Road and Maryland Route 22 (MD 22), which would contain partial lands of the Holiday Inn Express as well as the lot that housed the former gas station (since demolished). This particular lot is currently being used as overflow parking for the Olive Tree restaurant. Expanding the subdivision line to attach an additional piece of land from the Holiday Inn Express site would allow the CFA to fit on the lot, meet Aberdeen City Code, serve to provide access, and allow for storm water management (SWM). Mr. Ucciferro said that while CFA would develop and operate the site, the property itself would still be owned by Nick Hapsis. According to Mr. Ucciferro, this arrangement is due to a number of conditions imposed on Mr. Hapsis by his bankers through his loan agreements with them. Even though a subdivision has not been done this way in Aberdeen in the past, there is nothing in the Aberdeen City Code that would preclude this. This point was also confirmed in a meeting with Mrs. Grover and Mr. Stark.

Mr. Swisher asked for confirmation that a piece of the Holiday Inn Express lot would be joined with that of the former gas station lot to form the new lot. Mr. Ucciferro confirmed that to be the case.

Mrs. Grover asked about a lot line for Olive Tree Plaza I that is shown running through the middle of a building. Mr. Ucciferro said his company used available documents and did not survey the area, but would look into this before the final plat is prepared. Mrs. Grover asked that lot numbers and owner and developer signatures be added; remove Notes 13 (parking requirements and landscaping and lighting) and 19 (Americans with Disabilities Act parking), as these belong on the site plan and not the subdivision plan; and add the address for the lot. Mrs. Grover asked for confirmation that the Maryland State Highway Administration (SHA) improvements in this area and rights-of-way lines have been included on the plan. Mr. Ucciferro said they had.

Mr. Lapinsky read into the record the comments that had been sent to Mr. Ucciferro, to wit: Owner and developer need to sign the plan; Provide water and sewer usage certification signed, sealed, and dated by the engineer (water and sewer connection charges will be based on the fixture count method); Note 18, Water usage, needs to be as a calculation using the fixture count method; Note 22 is not needed, please remove; Note 26 references Lot 7, please show and label said lot; Provide 3 grid tics at multiples of 250 feet; Provide addresses for Lots 1A, 1B, 1C, 2, and this lot; Provide a drainage and utility easement for the proposed sewer adjacent to KFC/Beards Hill Road; Show and label a private drainage and utility easement from the Olive Tree Restaurant to the Beale Drive right-of-way (existing sewer manhole); Show and label all SWM easements all the way to a public road; Label all lot numbers and provide addresses; and provide SHA comments.

Mrs. Heavey asked about the rationale of the placement of the store and the inclusion of the additional piece of land, instead of extending the lot line back. Mr. Ucciferro said a lot line extension was intended for the proposed hotel on this site from 2 years ago. Subsequently, agreement was made to have the parking spaces in this particular area used as overflow parking for the Olive Tree. Mrs. Heavey pointed out that Mr. Hapsis owns the Olive Tree as well as the piece of land in question.

Mr. Schlottman asked for clarification that Mr. Hapsis will own the land, but CFA will own and operate the building and the business. Mr. Ucciferro confirmed that the franchisee would operate the business and CFA would lease the land from Mr. Hapsis.

Mr. Swisher spoke to the several subdivisions approved for this area in the past, including the cut in the curb between the Olive Tree restaurant and Olive Tree Plaza I. He indicated this cut is not shown in the plan, nor was it completed as was required in a previous Planning Commission approval. Mr. Swisher asked that Mr. Hapsis be reminded of that requirement.

Mr. Braerman asked if patrons would be able to enter and exit the CFA from the Holiday Inn Express site as well as Beards Hill Road. Mr. Ucciferro said they would be.

**Motion by Mr. Schlottman, seconded by Ms. Preston, to approve the Preliminary Subdivision Plan for Chick-fil-A, contingent upon the comments by the City staff being met. Motion passed unanimously.**

**2. Preliminary Site Plan for Chick-fil-A**

**Location: 1001 Beards Hill Road (at corner of Maryland Route 22).**

Representatives: Joseph Ucciferro, Bohler Engineering, and Matthew Stonemaker of Chick-fil-A (CFA).

Mr. Ucciferro stated the proposed building will be 4,750 square feet with seating for 102, a play area, 52 parking spaces, one access point (right in, right out) off Beards Hill Road, one-way traffic circulation on the site, two order points merging into one pay lane, and exits onto Beards Hill Road or through the Holiday Inn Express site. The landlord and CFA have agreed to extend the water and sewer lines from their current terminus near the KFC to this site. Mr. Ucciferro indicated that the City has agreed to fund the extension of the sewer line from Beale Drive to the manhole at KFC. Mr. Lapinsky asked Mr. Ucciferro to repeat that statement. Mr. Ucciferro said there had been meetings between Mr. Hapsis, Tammy Lowry, Mayor Bennett, City Manager Miller, and himself to talk about the extension of the water and sewer lines. Mr. Hapsis didn't feel it was fair for the City to have him fund the extension of the sewer line from Beale Drive to the KFC and then to a connection point at the site. Mr. Ucciferro said it was verbally agreed that the City would try to fund the installation of that section of sewer from Beale Drive through the frontage of KFC. Mr. Lapinsky said he knew nothing about this.

Mrs. Grover asked about the exterior of the building and site. Mr. Stonemaker said the building itself will be masonry, with 2 colors of brick. Mrs. Grover asked if there would be a garden or water feature such as those found at other CFAs. Mr. Stonemaker said there would not be a water feature, but there would be extensive landscaping. Mrs. Grover asked the hours of operation. Mr. Stonemaker said the facility would be open from 6:00 a.m. to 10:00 p.m., Monday through Saturday, and would be closed on Sunday. Mrs. Grover asked that the lighting and landscaping details be placed on a separate plan and submitted to the City's Departments of Planning & Community Development and Public Works for their respective reviews. The Subdivision and Site Plans have both been forwarded to the SHA, but she had not received comments back from them. At Mrs. Grover's request, Mr. Stonemaker pointed out the potential traffic routes for those patrons who wished to dine in, use the drive-thru, and/or exit by way of the Holiday Inn Express. Mr. Stonemaker indicated there would also be on-site signage to direct drivers. Mrs. Grover asked about the screening of the dumpster area. Mr. Stonemaker said the dumpster area would have masonry construction to match the building and would have landscaping around it.

Mr. Lapinsky stated that Mr. Ucciferro's assertion that the City would pay for the water line extension is not accurate, and that his understanding of the conversation is that the City would provide an economic development grant of a certain dollar amount that would be utilized to help extend the water line. Mr. Stonemaker said he would get with Mr. Ucciferro and reconcile the matter.

Mr. Lapinsky read into the record the comments that had been sent to Mr. Ucciferro, to wit: Owner and developer need to sign the plan; Provide water and sewer usage certification signed, sealed, and dated by the engineer (water and sewer connection charges will be based on the fixture count method); Label all lot numbers and provide addresses; Provide 3 grid ticks at multiples of 250 feet; Provide ADC map number and grid number; Note 18, Water usage, needs to be as a calculation using the fixture count method; Note 22 is not needed, please remove; Note 30 should only be "approved by the State Highway Administration;" Note 33 (grease hauling agreement) add "a copy will be provided to the City prior to use and occupancy;" Provide addresses for this lot, Olive Tree Restaurant, KFC, and the Holiday Inn Express (sheets 1 and 2 of 2); Remove limit of disturbance (sheet 1 of 2); Add a note "existing sewer service will be

properly abandoned at the downstream sewer manhole;" Add a note "existing water service to be properly abandoned at the main in Beale Drive;" The last proposed sewer manhole will be the limit of City maintenance (CFA lateral); Existing sewer manhole in the Olive Tree Restaurant parking lot is mislabeled as a grate, please revise label; Existing sewer manhole in the Olive Tree Restaurant parking lot will not be reconnected to the proposed main at the location shown on sheet 1 and 2 of 2, please revise; Please show water valves on each branch of the CFA water service tee; Provide sizes of water services to Olive Tree Restaurant and CFA; A cleanout should be installed at the property line of CFA; Provide drainage and utility easement for proposed sewer main adjacent to KFC/Beards Hill Road (sheet 2 of 2); Show and label a private drainage and utility easement from the Olive Tree Restaurant property line to the Beale Drive right-of-way (sheet 2 of 2); Provide a sampling manhole near the Olive Tree Restaurant property line; Existing sewer from the Olive Tree Restaurant bar should be connected to the new service lateral and cleanouts installed (sheet 2 of 2); Limit of City maintenance of the Olive Tree Restaurant will end at the connection to the proposed sewer manhole; Note that Olive Tree Restaurant will not be connected to the proposed sewer main until the existing grease trap is operating properly (sheet 2 of 2); Provide ownership information (KFC sheet 2 of 2); Show and label all SWM easements all the way to a public road (sheets 1 and 2 of 2); and provide SHA comments.

Mrs. Grover spoke to the parking numbers cited on the plan. The Site Plan indicates 100 seats, but according to Mr. Stonemaker's comments there will actually be 102 seats. The question was whether this would impact the on-site parking. Mr. Ucciferro said this would have no impact, as the City Code requirement is 46 spaces and 52 are being provided. Mrs. Grover asked that these numbers be changed on the Site Plan accordingly. In addition, the question of the timing of parking lot modifications was raised, as Mr. Hapsis has made previous commitments to perform these modifications. Mrs. Grover said these modifications need to be finished and the Use and Occupancy permit for the CFA may be held up until they are completed. Mr. Ucciferro said he would report that back to Mr. Hapsis. Mrs. Grover indicated the Harford County Division of Emergency Operations had also provided comments on the Site Plan.

Mr. Landbeck read a letter from Lt. Kirk Bane of the Aberdeen Police Department about the traffic flow from Beards Hill Road onto the CFA parking lot. Lt. Bane cited the possibility of traffic during peak hours extending back onto Beards Hill Road and perhaps onto MD 22, thus resulting in the increased likelihood of accidents. He had 3 suggestions to remedy this situation: Make the lot a right turn only exit with no entrance directly from Beards Hill Road; Use the access road between the KFC and the old Harco site (Beale Drive) as the main access to keep traffic off the main travel areas; and/or access the site from the road leading from West Bel Air Avenue to the Holiday Inn Express. Mr. Landbeck asked that the engineers provide to the Fire Department a PDF of the Site Plan showing the building, location of the fire hydrants, and if applicable, location of any freestanding piping. Mr. Landbeck said the Fire Department is excited to have CFA coming to Aberdeen, however they have the same concerns that Lt. Bane expressed. Mr. Landbeck stated that when, not if, there's an accident at this location, there will be issues getting equipment to the scene because of the backup of traffic onto Beards Hill Road and MD 22. The proposed road improvements will make things worse, as the curb lane will be removed and a direct access lane provided off MD 22. In addition, the entrance to the Olive Tree will only be 30 feet away. This will necessitate equipment using back road means for getting to the site.

Mr. Hersh asked about the cost of the extension of the water and sewer lines. Mr. Ucciferro estimated this to be approximately \$25,000. Mr. Hersh asked if anyone knew the approximate tax income per year to the City by the CFA. Mr. Ucciferro had no estimate of this number. Mr. Hersh felt this cost would likely be covered within a year and a half.

Mrs. Heavey asked if the SHA would be commenting on the entrance/exit off Beards Hill Road. Mrs. Grover said they would. The existing entrance to the former gas station will be removed and a new entrance established further up the road. Mrs. Heavey expressed concern over the parking around the dumpsters and asked for an explanation of double line ordering. Mr. Ucciferro indicated the order points shown in the example, and that 22 to 24 cars could be stacked in the queue lanes. Parking by the dumpsters will be for employees.

Ms. Preston added that she frequently visits the CFA in Hunt Valley and that the busiest times are between 11:30 a.m. and 2:00 p.m., with cars out the parking lot and down the road. She shares Mr. Landbeck's concern about the entrance off Beards Hill Road and the traffic flow. She shares Lt. Bane's sentiment about access via Beale Drive, but also had concerns about how the traffic coming out of the plaza areas and the Holiday Inn Express would be affected. Mr. Ucciferro indicated that he is very familiar with the store at Hunt Valley and that it has a single stacking lane, unlike the Aberdeen location which would have two such lanes. A second stacking lane was recently added to the Cockeysville store and it helped free up that site significantly. Mr. Stonemaker said the second lane helps increase the movement by 45% and the parking capacity on-site would be double that of Hunt Valley. Ms. Preston asked how fast cars can be processed through the drive-thru lane. Mr. Stonemaker said this depends on the franchisee and the volume, and the volumes in Maryland are higher than some other places. He estimated the lunchtime peak hour average to be about 110 per hour.

Mr. Schlottman asked how many employees the facility would have. Mr. Stonemaker said this would depend on the volume, but their stores typically average between 60 and 90. Mr. Schlottman recognizes the concerns of Lt. Bane and Mr. Landbeck, but doesn't feel that CFA would want their customers to go past the property, behind the KFC, and then into the CFA. Mr. Ucciferro said that several different layouts were considered for the store's footprint. The drive-thru was placed as far from the road as possible to allow for the maximum amount of traffic to be stacked on the site itself instead of the road.

Mr. Swisher asked if the road behind the Holiday Inn Express and parallel to MD 22 would tie into the lot. Mr. Ucciferro said it would not. Mr. Swisher asked why not. Mr. Ucciferro said there is no way to tie into the drive-thru; it will tie into the access road from the Holiday Inn Express, so access is afforded at that point. Mr. Swisher asked how an employee would access the parking area. Mr. Stonemaker said it would be off Beard Hill Road, through the Holiday Inn Express lot, or off of Beale Drive. Mr. Swisher felt the concerns expressed over the traffic stacking were valid, but didn't see the Planning Commission being able to solve that issue at this point. Mr. Swisher asked if the SHA had approved the entrance off Beards Hill Road. Mr. Ucciferro said he had not received any comments back from SHA as yet.

**Motion by Mr. Schlottman, seconded by Mr. Hersh, to approve the Preliminary Site Plan for Chick-fil-A as stated, contingent upon staff comments and SHA comments being met. Motion passed unanimously.**

### **3. Preliminary Site Plan for Aldi**

**Location: Lot 1, 746 South Philadelphia Boulevard (at corner of Edmund Street).**

Representatives: Gerry Powell and Tory Pierce, Frederick Ward Associates (FWA) and Troy Faulkner and Josh Walls, Aldi, Inc.

Mr. Powell indicated the site is located at the corner of South Philadelphia Boulevard (U.S. Route 40) and Edmund Street (across the street from WalMart), on the site previously approved for Happy Harry's. The lot has been graded out and has private access off both Edmund Street and Route 40. A small portion of the lot is in the City's Wellhead Protection Zone #2 and the remainder is in Harford County's Wellhead Protection Zone #3. A note will be added to the Plan to reflect this. The Architectural Review Committee (ARC) met with the group on July 5 and selected one of the six proposed exterior choices. Comments have been received from Mrs. Grover and Mr. Lapinsky and will be addressed accordingly. Proposed water usage as indicated on the plan has been revised from 2,230 gallons per day (GPD) to 150 GPD or 1.2 equivalent dwelling units (EDU).

Mrs. Grover requested the buffer yard and off-street loading space requirements be shown on the Plan. Mrs. Grover asked about the number of employees, the hours and days of operation, and the nature of deliveries. Mr. Faulkner said the facility will employ between 20 and 30 employees, based on volume, with the hours of operation being 9:00 a.m. to 8:00 p.m., Monday through Saturday, and from 9:00 a.m. until 6:00 p.m. on Sunday. Deliveries will be received three times per week at the rear of the store. Mrs. Grover asked about lighting and landscaping. Mr. Powell indicated the previous developer of Happy Harry's placed light standards on this site and noted their location on the Plan. He anticipates that between these and the lighting to be placed on the building, no additional lighting would be needed. Mrs. Grover asked about the dumpster area. Mr. Powell indicated there would be a roll-away dumpster in the loading dock area, recessed about 4 feet below grade.

Mr. Lapinsky read into the record the comments that had been sent to Mr. Powell, to wit: Engineer needs to sign, seal, and date the plan; Owner and developer need to sign the plan; Provide water and sewer usage certification signed, sealed, and dated by the engineer; Note 4, Water Usage, needs to be as a calculation using the fixture count method (1 EDU will be allowed for this business); Provide 3 grid ticks at multiples of 250 feet; Provide addresses for Lots 1 and 2 (Lot 1 Plan label is 744, address on building is 746, both need to match); Provide existing drainage and utility easement deed reference; Fire hydrant tee and valves will need to be properly relocated (with no bends as shown); Existing ¾-inch water service and 6-inch sewer services need to be utilized or properly abandoned (at the water main and sewer at existing manhole); Provide water service size; Proposed water service will need to be a cut-in tee with valves on each branch of the tee; Provide a drainage and utility easement around the proposed water meter vault; Provide sewer service size (minimum 6 inches); Provide a clean-out at the property line; Show existing clean-out and label "To Be Removed" (if applicable); Note site is within the City's Wellhead Protection Area and zone number; Provide sewer main and storm drain flow arrows; Provide spot elevations and high points; Please verify that drainage areas to water quality swales match the approved SWM plans; Existing water and sewer plans and as-builts will need to be revised; and show Edmund Street Booster Station 8-inch water.

Mr. Hersh commended the appearance of the project.

Mrs. Heavey asked about the landscaping along Edmund Street. Mr. Powell indicated additional landscaping was placed on this side to provide a good transition to Edmund Street. Mrs. Heavey also expressed concern with the parking along the right side of the building, stating this could be a safety issue with incoming traffic and people unloading their groceries, and asked if the Police and/or Fire Department had any issues with this layout. Mrs. Grover said neither Lt. Bane nor Mr. Landbeck had expressed any concerns along these lines. Mr. Powell added that parking in this particular area would be for employees only.

Mr. Braerman asked if Aldi saw any problem competing with WalMart. Mr. Faulkner said no, that Aldi is 20 to 25% cheaper.

Mrs. Grover indicated she had received comments from the Harford County Division of Emergency Operations and passed those on to Mr. Powell. These included a request that the proposed building display 6- to 8-inch address numbers and letters, and that if the business is not open 24 hours a day a list of 3 emergency contacts for notification, response, and securing purposes be provided.

**Motion by Mr. Hersh, seconded by Mr. Braerman, to approve the Preliminary Site Plan for Aldi's located at Lot 1, 746 South Philadelphia Boulevard. Motion passed unanimously.**

#### **4. 2011 Annual Report of the Planning Commission**

Mrs. Grover stated comments had been received from Mr. Swisher, Mrs. Heavey, and Mrs. Kosko and incorporated into the document, with copies sent to Planning Commission members. A copy of the Report was sent to the Maryland Department of Planning per the requirements of State law. The request this evening is for final approval of the Report.

**Motion by Ms. Preston, seconded by Mr. Hersh, to approve the 2011 Annual Planning Commission Report dated June 15, 2012. Motion passed unanimously.**

At this point, the Chairman called for a five minute break.

#### **5. Revised Preliminary Site Plan for The Residences at Fieldside Village Location: Long Drive (west of and adjacent to Ripken Academy).**

Representatives: Michael Leaf, attorney, Pessin Katz Law; Amy DiPietro, Morris & Ritchie Associates (MRA); David Altfeld, Southern Land Company (SLC)/Fieldside Residential Business Trust (FRBT); Rachel Hess, attorney, Winegrad, Hess, Friedman, and Levitt.

Mr. Leaf indicated this to be similar to the plan that was before the Planning Commission on December 14, 2011, but due to a number of issues raised at that time and the need for additional information, the plan was re-worked and is being brought back for consideration. Mr. Leaf indicated a memorandum has also been included from Rachel Hess, who prepared the original

homeowners association and condominium documents and is representing FRBT in any revisions that may need to be made to those documents. Her memo addresses the questions the Planning Commission had from the December meeting.

Ms. DiPietro briefly reviewed the history of the development. She stated that in 2004 plans were submitted for 168 condos on the north side of Long Drive, with a movie theater, retail, and restaurants proposed for the south side. One condominium building was eventually constructed, but the commercial development did not come to fruition. In November 2008, revised plans were presented for the south side, with one office building subsequently constructed. SLC bought the residential land and is proposing 200 high-end apartment units (72 1-bedroom, 106 2-bedroom, and 22 3-bedroom) in seven new 4-story buildings (three of which will have under-building parking totaling 66 spaces), along with retaining the existing 16-unit condominium building. This use requires 418 parking spaces, with 425 provided. There are 8-inch water and sewer mains to the project, with a 6-inch service line to each site. Both utilities will become private and be maintained by the developer. There will also be a 5,000-square foot community center and 89 private garage spaces (which can be rented for an extra fee). Other proposed amenities include a gazebo and sitting area behind the club house, barbecue and fire pit areas, a pool in the rear of the club house, a tot lot, open space for a play area, five pet stations, a car wash area with vacuum and compressed air behind the detached garages, and a fitness/business center inside the community center. In addition to these items, Ms. DiPietro indicated an agreement has been drawn up and executed between the condo owners and FRBT. This agreement deals with such things as reserve parking, use of amenities, and utilities.

Mr. Braerman asked about the size of the garages, that different people have different ideas about what constitutes a garage. Ms. DiPietro said the garages at the property in North East are large enough to comfortably support an extended cab truck. The rough measurements there were 11 feet by 20 feet.

Mrs. Grover asked if the 32 parking spaces assigned to the condos were labeled for their exclusive use and if the garages would be used for storage. Ms. DiPietro said the parking spaces assigned to the condos were not labeled, and that the garages would be for parking of cars only, not storage. If the demand is not there for such garages, they will not be constructed.

Mr. Lapinsky asked for cleanup of changes from public to private for water and sewer, as well as completion of some areas that did not originally take place with this project. Mr. Lapinsky read into the record the comments that had been sent to Ms. DiPietro, to wit: Owner needs to sign the plan; Note 31 is not needed, please remove; Explain Note 18 regarding existing condo Building #2 ("all on-site water and sewer mains will be privately maintained"); Existing east water service connection needs to be replaced with a cut-in tee with valves on each branch of the tee; City maintenance will end at the 8-inch valve off the tee and the City will maintain the water meter only; Existing water connection at west entrance needs the tapping tee and valve properly removed; On-site water should be capped opposite Building #8; Label existing 12-inch ductile iron pipe and existing air release vault; Existing concrete crosswalk will need to be repaired or replaced to align with existing handicap ramps; Provide signed, sealed, and dated letter showing water and sewer usage calculations for apartments according to the Aberdeen City Code; Please update the plan to show the entrance to the Ripken Stadium parking lot was completed, the curb and gutter relocated, the headwall removed, the 24-inch storm drain bulkheaded, and the area re-graded; The approved water and sewer construction drawings will need to be revised/updated;

Provide signed, sealed, and dated SWM analysis that the additional impervious area can be accommodated, or indicate what revisions are needed; Existing SWM report may need to be revised; and repair existing sidewalk to meet handicap ramp requirements.

Mr. Stark asked Ms. Hess to speak to the steps undertaken to achieve the agreement between the condo owners and FRBT. Ms. DiPietro said that would be addressed in detail during the next agenda item. Mr. Stark asked Mr. Leaf about signatures on the agreement. Mr. Leak said it was signed by the condo association.

Mrs. Heavey expressed concern at the lack of assigned parking per building or in close proximity to same. Mr. Altfeld indicated there would be assigned spaces for parking under the buildings and those tenants would be paying a premium for an individual space within that building, as would those with garages. The rest of the parking would be open. Mrs. Heavey felt that a “high-end” apartment complex should have designated parking throughout.

Ms. Preston asked if the plan was to construct one building at a time or all at once. Ms. DiPietro said plans were to construct one building and lease it before building another one. Ms. Preston asked that if in the event the units did not rent as quickly as expected, or if the economy turned around to the point where renting was no longer as attractive, would all of the proposed buildings still be constructed or would they halt. Ms. DiPietro said she did not see the owners making the financial investment if they could not rent the units in hand. Ms. Preston asked about the timeline of when the garages would be built. Ms. DiPietro said the garages would be built only if there was an interest in renting them. If the garages weren’t built, the area intended for them would be used as open air parking. Ms. Preston asked as to when the community center would be built. Ms. DiPietro said it would be at the halfway point of build-out of the apartments. Mr. Altfeld indicated it may be built at the very beginning.

Mr. Schlottman echoed Mrs. Heavey’s concerns over the parking arrangements. He stated that most “high-end” townhouse and apartment complexes he is aware of have designated parking spaces and feels this should be looked at seriously. Mr. Schlottman also asked if anyone has looked at the widening of Long Drive, as he feels it is narrow. He feels this condition may be exacerbated by the addition of 200 or more cars from the apartment complex, along with cars coming from various Stadium-area events and the office building across the street.

Mr. Swisher said he favors the proposed project and thinks it will be good. However, he did have some concerns. He reviewed the concept of homeowners and condominium associations, and expressed concern over how they would impact this project. He feels each building should be on its own lot, have parking designated for each lot as called for in the City Code, and have green space. In addition, he feels the existing condo building should be peeled off separately, with separate parking. Mr. Swisher does not feel the issue between the homeowners and condo owners association has been settled, but needs to be before the Planning Commission could move forward with a recommendation of approval to the Mayor and City Council. He recommended one of the following be done: (1) request a waiver from the Board of Appeals, (2) re-draw the buildings to show the footprint, parking, and green space areas, (3) remove the existing condo building and parking from the plans and make it a separate entity, (4) seek changes to the current zoning laws, or (5) let the Planning Commission go ahead and give its recommendation, up or down.

Mr. Stark recommended that Ms. Hess give testimony as to how and why the mechanics of the various association documents work, as these are complicated issues and her expertise may shed some light on Mr. Swisher's concerns. Mr. Swisher feels the outlined agreement doesn't match our planning and zoning regulations as currently constituted. Ms. Hess gave an overview of the rationale and history for doing an agreement such as what's being used for this project, as well as the relationship in this project between the homeowners and condo association. Mr. Swisher expressed concern that condo associations he is aware of do not have a homeowners association over it, that this must be a new development. Ms. Hess said this arrangement is becoming more common.

Mrs. Grover asked Ms. Hess to explain exactly what the condo owners own. Ms. Hess said they have fee simple title to their dwelling unit and an undivided interest in the common elements of their own condo building (i.e. roof, elevator, and any other elements that may be included within the boundaries of that property). Additional discussion ensued between the Planning Commission members and Ms. Hess over homeowners and condo association voting, use of amenities, conditions of the agreements, and potential legal ramifications of various actions.

Mr. Altfeld spoke to Mr. Swisher's comments about the existing condo building. He indicated that if the condo property were expanded to include the parking in front of the existing condo building, the existing condo documents would need to be amended. This would require the approval of the lending institution for each condo mortgage. Mr. Altfeld felt this would be impractical and virtually impossible in the current lending climate. Additionally, Mr. Altfeld said he is looking forward to the day when the apartments can be converted to condos and sold as such. Having the condo rights in order to do this is very important. Finally, from a financial standpoint, the banks may not allow the project to go forward if changes are required. Mr. Swisher felt the units could be built as condos and rented as same; Ms. Hess said this is difficult from a logistical and insurance standpoint.

Mr. Leaf conceded that this project, as proposed, is different from what was originally presented years ago. However, the question is whether this proposed project complies with the City's zoning and subdivision regulations. If so, it should be approved – the use is the issue, not the ownership. While this may not be what is preferred, if it meets the law, it should be approved.

Mr. Hersh asked Ms. Hess if what she presented was based on Maryland law. She said it was. Mr. Hersh asked Mr. Stark if he concurred with that view. Mr. Stark said the basic information she gave as to how the various associations and documents work together was correct under the law. Mr. Hersh asked if there was anything that Ms. Hess brought up that would preclude a vote on this matter. Mr. Stark said that would be up to the Planning Commission. Mr. Hersh feels the Planning Commission needs to look at what the market dictates; that in terms of parking there are enough spaces on site to meet the Code; the current condo owners need some relief; and that there is an obligation to the public and the City in the area of taxes, Impact Fees, and water and sewer connection fees to be realized from this project. He also questioned how often the property owners should have to come back before the Planning Commission to answer questions about the condo/homeowners issue.

Mr. Braerman concurred with this last issue and with the previous comments of Mr. Leaf. He did not feel the condo/homeowners issues were relevant.

Mrs. Heavey feels the increase in the size of the project and the infrastructure that was originally planned for it is a concern. She referenced the Limitations, Guides, and Standards section of the Development Code and asked for clarification as to whether this is truly enforceable. Mrs. Grover said the infrastructure issues were addressed by Mr. Lapinsky. The parking requirements in the Code speak to the number of spaces on-site and not the distance. Those requirements have been met.

**Motion by Mr. Hersh, seconded by Mr. Schlottman, to approve the Revised Preliminary Site Plan for The Residences at Fieldside Village. The Chairman called for a roll call vote, but the result was a voice vote, with the Chairman declaring the motion passed. (From the tape, it appears that Ms. Preston and Messrs. Braerman, Hersh, and Schlottman, voted yes, and that Mr. Swisher and Mrs. Heavey did not register a vote one way or the other.)**

**6. First Revision of Final Plat for The Residences at Fieldside Village**  
**Location: Long Drive (west of and adjacent to Ripken Academy).**

Representative: Amy DiPietro, Morris & Ritchie Associates (MRA).

Ms. DiPietro indicated these to be minor revisions to the existing subdivision plat, done in order to achieve the goals of the preliminary site plan just approved by the Planning Commission.

Mrs. Grover stated Mr. Lapinsky had to leave to handle an emergency water leak, but he requested his comments be entered into the record, to wit: Owner(s) needs to sign the plan; Surveyor needs to sign, seal, and date the plan; Provide an easement for the proposed water meter vault; and label on-site drainage and utility easements as “private.”

**Motion by Mr. Hersh, seconded by Mr. Braerman, to approve the Review of First Revision of Final Plat One – The Residences at Fieldside Village. Motion passed with one abstention (Mrs. Heavey).**

There being no further business or public comment, the meeting was adjourned at 10:30 p.m.

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Planning Commission Chairman

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Recording Secretary

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Date of Approval